

REMARKS

The Office Action mailed September 23, 2005, in the nature of a requirement for restriction, has been carefully reviewed. Favorable consideration is respectfully requested.

Restriction has been required among what the Examiner considers to be patentably distinct species of the invention, as follows:

Group 1, drawn to a DNAzyme which targets the GU cleavage site of nucleotides 198-199 of SEQ ID NO: 1, presently comprising claims 1-4 and 8-19, in part;

Group 2, drawn to a DNAzyme which targets the GU cleavage site of nucleotides 200-201 of SEQ ID NO: 1, presently comprising claims 1-4 and 8-19;

Group 3, drawn to a DNAzyme which targets the GU cleavage site of nucleotides 264-265 of SEQ ID NO: 1, presently comprising claims 1-4 and 8-19, in part;

Group 4, drawn to a DNAzyme which targets the AU cleavage site of nucleotides 271-272 of SEQ ID NO: 1, presently comprising claims 1-5 and 8-19, in part;

Group 5, drawn to a DNAzyme which targets the AU cleavage site of nucleotides 301-302 of SEQ ID NO: 1, presently comprising claims 1-4 and 8-19, in part;

Group 6, drawn to a DNAzyme which targets the GU cleavage site of nucleotides 303-304 of SEQ ID NO: 1, presently comprising claims 1-4 and 8-19, in part;

Group 7, drawn to a DNAzyme which targets the AU cleavage site of nucleotides 316-317 of SEQ ID NO: 1, presently comprising claims 1-4 and 8-19, in part;

Group 8, drawn to a DNAzyme of SEQ ID NO: 3, presently comprising claims 1-3, 6 and 8-19, in part;

Group 9, drawn to a DNAzyme of SEQ ID NO: 4, presently comprising claims 1-3, 6 and 8-19, in part;

Group 10, drawn to a DNAzyme of SEQ ID NO: 5, presently comprising claims 1-3, 6 and 8-19, in part;

Group 11, drawn to a DNAzyme of SEQ ID NO: 6, presently comprising claims 1-3, and 6-19, in part;

Group 12, drawn to a DNAzyme of SEQ ID NO: 7, presently comprising claims 1-3, 6 and 8-19, in part;

Group 13, drawn to a DNAzyme of SEQ ID NO: 8, presently comprising claims 1-3, 6 and 8-19, in part;

Group 14, drawn to a DNAzyme of SEQ ID NO: 9, presently comprising claims 1-3, 6 and 8-19, in part; and

Group 15, drawn to a DNAzyme of SEQ ID NO: 10, presently comprising claims 1-3, 6 and 8-19, in part.

Applicants hereby elect Group 11, drawn to the DNAzyme of SEQ ID NO:6 presently comprising claims 1-3 and 6-19, in part. It is respectfully submitted that Group 11 should also include claim group 4, in part, as the DNAzyme of SEQ ID NO:6 will cleave SEQ ID NO:1 at the specified nucleotides.

This restriction requirement is traversed on the basis of MPEP Section 803, that requires that the examiner examine the application on the merits if the search and examination of an entire application can be made without serious burden, even though it includes claims to independent or distinct inventions. Applicants respectfully submit in this regard that no such serious burden would exist, and therefore the restriction requirement should be withdrawn on the basis of the second paragraph of MPEM 803.

However, even if the examiner disagrees, applicants respectfully note that the examiner has considerable discretion in this regard, and may voluntarily choose to examine plural inventions in a single application. If the examiner is not convinced by applicants' points made above, applicants nevertheless request the examiner to exercise his discretion in this regard and to examine all of the claims on the merits.

Appln. No. 09/889,075
Response dated January 17, 2006
Reply to Office Action of September 23, 2005

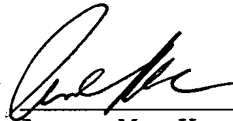
If the election requirement is maintained, it will be clear on the record that the PTO considers the groups to be patentably distinct from one another *i.e.*, *prima facie* non-obvious from one another. This means that a reference identical to the one group would not render the other group *prima facie* obvious.

Favorable consideration and examination of all pending claims on the merits are respectfully requested.

Respectfully submitted,

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